REMARKS

Reconsideration and continued examination of the above-identified application are respectfully requested.

The present Office Action indicates that all prior art rejections from the previous Office Action have been withdrawn in light of Applicant's arguments. This withdrawal is noted with appreciation.

Claims 1-34 and 56-59 remain in this application. Claims 1, 26 and 56-59 are the independent claims. Full support for the amendments can be found throughout the present application, including the claims as originally filed. Accordingly, no questions of new matter should arise, and entry of the amendments is respectfully requested.

Claims 6, 7, 22, 30 and 32 are rejected under 35 U.S.C. § 112, ¶ 2. Claims 6, 7 and 22 have been amended to clarify the claims as required by the Examiner. With regard to claim 30, spunlacing is hydraulic needle-punching, as described on page 9 of the specification. With regard to claim 32, the Examiner questioned as to how the upwardly facing loops would increase the surface contact. Claim 32 depends on claim 26, which states in part that "the bottom surface [of the face layer] has been altered to increase the surface area in contact with the adhesive layer..." Claim 32 further adds that the face layer is a gathered layer or pleated layer and that its bottom surface has upwardly facing loops from the pleats. These upward facing loops or pleats increase the surface area of the bottom layer that is in contact with the adhesive layer. (See Figs. 2 and 14-17, *inter alia*) Hence, Applicant respectfully requests that these rejections be withdrawn.

Claims 1-5, 16-21, 23 and 56-57 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. patent application publication no. 2003/0232171 to Keith. The Examiner stated that Keith teaches a carpet comprising pile-forming yarns 20 projecting from a primary base 22, which the Examiner equates to the "fibrous face layer" of the present invention, and that Keith also teaches a plurality of yarns 20 anchored in a layer of latex 24. In this group of rejected claims, claims 1 and 56-57 are the independent claims. The other claims depend on claim 1. Applicant respectfully traverses this rejection. As shown below, layer 22 of the Keith reference is located <u>below</u> the top layer 20 of the carpet, and is, therefore, not a "fibrous face layer" as claimed in these claims. Hence, the Keith reference cannot anticipate these claims.

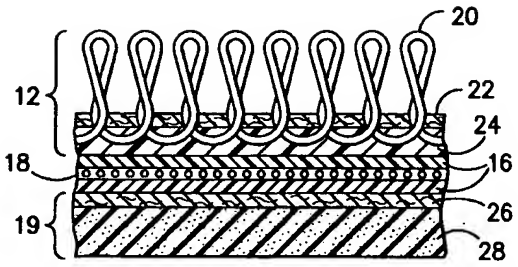

FIG. –1A–

Applicant also respectfully objects to an apparent inconsistent usage by the Examiner of the term "fibrous face layer." In the prior Office Action dated 3/28/2005 (hereinafter first Office Action), the Examiner interpreted this term to be the top layer, *i.e.*, the top pile or tufted layer in U.S. 5,902,663 to Justesen and U.S. 6,503,595 to Kim (see paras. 7 and 21 in the first Office Action). However, in the present Office Action the Examiner is interpreting "fibrous face layer" to be the second layer down from the top pile or tuft layer in Keith, and also in U.S. 6,051,300 to Fink (see para.31 in the first Office Action). Applicant submits that the plain meaning of the term "fibrous face layer", *i.e.*, the fibrous top layer, should control and be used consistently.

However, to move the prosecution forward, Applicant has amended independent claims 1 and 56-57 to recite further that "a fibrous face layer forming at least a portion of a top surface of the composite" and that the fibrous layer has legs dependent therefrom. Support for this amendment can be found throughout the present specification, *i. e.*, top surface 16 of face layer 12. Certainly, layer 22 in the Keith reference does not form any part of the top surface of the carpet. Hence, independent claims 1 and 56-57 are presently patentable over the Keith reference.

This amendment does not change the scope of the claims and put the claims in a form for allowance or appeal, and therefore should be entered.

Claims 2-5, 16-21, 23 depend on claim 1 and recite additional limitations therefrom. Hence, these claims are presently patentable due to their dependency. Applicant reserves the right to address the related rejections stated in the Office Action including, but not limited to, alleged inherent properties not specifically disclosed in the cited art.

Claims 6-7 are rejected under 35 U.S.C. § 103 as being obvious over a hypothetical combination of Keith and U.S. patent application publication no. 2003/0152743 to

Matsunaga. Claims 8-10 and 24-25 are rejected under 35 U.S.C. § 103 as being obvious over a hypothetical combination of Keith, U.S. patent no 5,763,040 to Murphy and U.S. patent no. 4,576,840 to Murata. Claim 11 is rejected under 35 U.S.C. § 103 as being obvious over a hypothetical combination of Keith, Murphy, Murata and U.S. patent no. 5,283,097 to Gillyns. Claims 12-15 are rejected under 35 U.S.C. § 103 as being unpatentable over Keith in view of Gillyns.

All the claims in the preceding paragraph depend on claim 1 and recite additional limitations therefrom. Hence, these claims are presently patentable due to their dependency. Applicant reserves the right to address the rejections stated in the Office Action including, but not limited to, the rationales for combining the cited references and any alleged inherent properties not specifically disclosed in the cited art, should that becomes necessary.

Claims 26-29, 31-32 and 34 are rejected under 35 U.S.C. § 103 as being unpatentable over Keith in view of EP 0547533 to Ladeur. In this group of claims, claim 26 is the only independent claim. Claim 26 has been amended similar to claim 1 and is patentable, because Keith does not disclose a composite with a fibrous face layer forming at least a portion of a top surface with legs dependent therefrom. Ladeur cannot remedy this deficiency. Hence, claim 26 is patentable over this combination. Applicant reserves the right to address the rationale for combining the cited references and any alleged inherent properties not specifically disclosed in the cited art, should that becomes necessary.

Claims 27-29, 31-32 and 34 depend on claim 26 and recite additional limitations therefrom. Hence, these claims are presently patentable due to their dependency. Applicant reserves the right to address the related rejections stated in the Office Action including, but not limited to, the rationale for combining the cited references and any alleged inherent properties not specifically disclosed in the cited art, should that becomes necessary.

Claims 30 and 33 are rejected under 35 U.S.C. § 103 as being unpatentable over the combination of Keith, Ladeur and Murphy. Claims 30 and 33 depend on claim 26 and recite additional limitations therefrom. Hence, these claims are presently patentable due to their dependency. Applicant reserves the right to address the related rejections stated in the Office Action including, but not limited to, the rationale for combining the cited references and any alleged inherent properties not specifically disclosed in the cited art, should that becomes necessary.

Claim 58 stands rejected under 35 U.S.C. § 103 as being unpatentable over a

hypothetical combination of Keith, Murphy and U.S. patent no. 5,075,142 to Zafiroglu. Claim 58 has been amended similar to claim 1 and is patentable, because Keith does not disclose a composite with a fibrous face layer forming at least a portion of a top surface with legs dependent therefrom. Murphy and Zafiroglu cannot remedy this deficiency. Hence, claim 58 is patentable over this combination. Applicant reserves the right to address the rationale for combining the cited references and any alleged inherent properties not specifically disclosed in the cited art, should that becomes necessary.

Claim 59 stands rejected under 35 U.S.C. § 103 as being unpatentable over a hypothetical combination of Keith, and Zafiroglu. Claim 59 has been amended similar to claim 1 and is patentable, because Keith does not disclose a composite with a fibrous face layer forming at least a portion of a top surface with legs dependent therefrom. Zafiroglu does not remedy this deficiency. Hence, claim 59 is patentable over this combination. Applicant reserves the right to address the rationale for combining the cited references and any alleged inherent properties not specifically disclosed in the cited art, should that becomes necessary.

Concerning the provisional obviousness-type double patenting rejection over co-pending U.S. Application Serial No. 10/611, 470 (Docket No. SWZ-010). Applicant respectfully traverses the Examiner's statement that claims 1-34 and 56-59 of the present application are not patentably distinct from claims 1-22 and 38-62 of the '470 application. This rejection is fully addressed in the amendment filed in the '470 application on even date herewith, and that response is incorporated herein by reference.

First, the Examiner stated in paragraph 15 of the Office Action that "[b]oth [the present and '470] applications recite a fibrous face with elevated and depressed areas with the depressed areas adhesively attached to the rest of the composite." (emphasis added). Applicant respectfully directs the Examiner's attention to Section 804 of the M.P.E.P. This section clearly states that "the focus of any double patenting analysis necessarily is on the claims in the multiple patents or patent applications involved in the analysis." (emphasis added). (See also sub-section 804.II.B.) Applicant submits that similar disclosures, if any, in the specification of the applications are not relevant to and cannot support an obviousness-type double patenting rejection. Furthermore, since the '470 application and the present application are filed on the same day, they are not available as prior art vis-à-vis each other.

Second, claims 1-22 and 38-62 of the '470 application and claims 1-34 and 56-59 of the present application are not obvious in view of each other, because among many other reasons while the claims of the '470 application recite "depressed areas" and "elevated areas", the claims of the present application do not. On the other hand, while the claims of the present invention recite a composite with a fibrous face layer forming at least a portion of a top surface and with legs dependent therefrom, the claims of the '470 application do not. These limitations are distinct and non-obvious from each other.

Third, the Examiner relies on Keith to support a proposition that the "incorporation of the pile forming yarns and the nonwoven primary base constitutes a fabric comprising a plurality of legs dependent from the fibrous face layer, or a pile fabric." This reliance of Keith is misplaced, because (i) Keith does not anticipate or render any of the amended claims of the present invention obvious (even prior to the current amendment), as discussed above and (ii) the claims in the '470 patent have nothing to do with legs dependent from a face layer.

Additionally, it is unclear whether the Examiner is applying Keith in combination with the claims, and only the claims, of the present application against the claims of the '470 application OR whether the Examiner is applying Keith in combination with the claims, and only the claims, of the '470 application against the claims of the present application OR whether the Examiner is applying Keith against the claims of the '470 application in this Office Action of the present application.

Hence, Applicant respectfully requests that the obviousness-type double patenting rejection be withdrawn.

The remarks above place the present patent application in form for allowance. This response is, therefore, a proper response to the Final Office Action, and its entry is respectfully requested.

If additional fees are necessary, please charge the additional fees to Deposit Account No. 50-1980. If a fee is required for an extension of time under 37 C.F.R. § 1.136 not accounted for above, such extension is requested and should also be charged to said Deposit Account.

The Examiner is respectfully requested to contact the undersigned by telephone should there be any remaining questions as to the patentability of the pending claims.

Respectfully submitted,

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